

Remarks

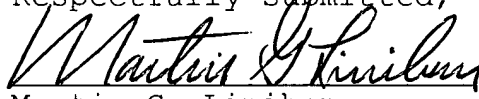
Reconsideration of the rejection of claims 1, 4, 6-13, 16-19, 21-23, 26, 28-33, 36-38, 40, 42, 43 and 46-53 under 35 USC 102 based on Rapoport and of claims 2, 3, 5, 14, 15, 20, 24, 25, 27, 34, 35, 39, 41, 44 and 45 under 35 USC 103 based on Rapoport is respectfully requested for the following reasons. Applicant's invention relates to a method and apparatus for determining the optimal path to an image of a subsurface target defined by images of markers in a CT or MRI image and a direction of a visible light beam aimed at the target. As pointed out on page 2 of the instant application, the present invention recognizes the desirability of avoiding prior art approaches which include marker frames implanted in the patient. The cited Rapoport patent is an example of such prior art. The method and apparatus disclosed by Rapoport utilizes markers  $M_1$ - $M_4$  fixedly embedded within the patient's skull (col. 4, lines 22-25). In sharp contrast, applicants' invention does not employ markers fixedly embedded in the body of a patient. Instead, as shown for example in Fig. 1 of the instant application, the support structure 12 carrying the fiducials 14 is in spaced relation to the body of the patient. Independent claims 1, 16, 26, 36, 46 and 51 of the instant application have been amended to call for the subsurface target being located within a body having an external surface and to call for the fiducials being supported or positioned in spaced relation to the external surface of the body. This clearly is not disclosed by Rapoport who fixedly embeds markers  $M_1$ - $M_4$  in the patient's skull.

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In view of the foregoing, claims 1-53 as amended are believed to patentably distinguish over Rapoport within the meaning of 35 USC 102 and 35 USC 103.

Favorable action on this application is respectfully requested.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Martin G. Linihan", is written over a horizontal line.

Martin G. Linihan

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